



MISSOURI DEPARTMENT OF MENTAL HEALTH

Dorn Schuffman Director



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
8.170

CHAPTER Regulatory Compliance	SUBCHAPTER HIPAA Regulation	EFFECTIVE DATE 7/15/2003	NUMBER OF PAGES 2	PAGE NUMBER 1 of 2
SUBJECT External PHI Data Request Process		AUTHORITY 45 CSR Section 164 502 et seq	HISTORY See Below	
PERSON RESPONSIBLE Deputy Director, Office of Quality Management			Sunset Date 7/01/2007	

PURPOSE: This DOR will provide instructions regarding the Department of Mental Health's obligations relating to External PHI Data Requests. This will assure compliance with the HIPAA requirements related to the use or disclosure of Protected Health information (PHI).

APPLICATION: The Department of Mental Health, its facilities and workforce.

(1) **DEFINITIONS:** As used in this operating regulation, the following terms shall mean:

(A) "External data requests," requests for the exchange, sharing or disclosing of consumer protected health information by an agency, organization, or entity outside of the department of mental health. Examples include compiled or aggregate data requests as a result of interagency activities, agreements, or collaborative initiatives.

(B) "External data," relates to department of mental health consumer services or data concerning consumers from other agencies for whom the department provides some level of service. This does not include request for information on one consumer, assuming that either a HIPAA valid authorization has been executed or the disclosure meets an exception as allowed under HIPAA.

(C) "Protected Health Information (PHI): means individually identifiable information relating to past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual.

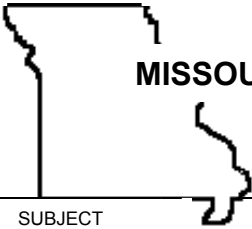
(D) "Workforce Members," employees, volunteers, trainees, and other persons whose conduct, in the performance of work for the department, its offices, programs or facilities, is under the direct control of the department, office, program or facility, regardless of whether they are paid by the entity.

(2) PROCEDURE

(A) Department of mental health staff shall contact the Central Office HIPAA Privacy Office when there is a request, or it is anticipated that a collaborative initiative will result in a request for the exchange of PHI. That contact shall occur prior to staff entering into or signing any agreement binding the department to any timelines or data exchanges.

1. This applies to compiled or aggregate data requests as a result of interagency activities, agreements, or collaborative initiatives.

2. This request applies to department of mental health consumer services or data concerning consumers from other agencies for whom department of mental health provides some services.



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3. These requests do not include circumstances in which a request is made for information on one consumer, assuming a proper authorization has been executed or for which an HIPAA exception applies.

(B) The division, office, or facility handling the information request is required to identify an individual to work with the HIPAA Privacy Office in the review of the request, and to provide specific information describing the following:

1. Nature of the disclosure;
2. All agencies and parties involved;
3. Frequency and duration of the data exchange;
4. Purpose and expected outcome of the exchange of data;
5. Specific data elements to be exchanged (such as variables or demographics);
6. Any known Missouri statutory requirement(s) associated with the exchange of data; and
7. Method of data transmittal (electronic, paper, oral, other).

(C) The HIPAA Central Office Privacy Office, upon review and consultation related to the scope of work with the identified division, office or facility staff, and the General Counsel's Office, if applicable, will reach consensus as to the extent to which the information disclosure activity must be formalized to satisfy HIPAA requirements. Possible documents which may be necessary include:

1. Business Associate Agreements;
2. Memorandum of Understanding;
3. Interagency Agreement;
4. Any other legally recognized HIPAA mechanism or exception; or
5. Denial of the data exchange request.

(D) The department's HIPAA Privacy Office will then issue a legal advisory memorandum to the department of mental health staff initiating the request. That document will detail which steps need to be taken to achieve a HIPAA compliant disclosure, or that the external data request is denied. Response time may vary, but is not to exceed 30 calendar days for resolution.

(3) NO LOCAL POLICIES: There shall be no local policies on this topic. The Department Operating Regulation shall control.

(4) SANCTIONS: Failure to comply or assure compliance with this DOR shall result in disciplinary action, up to and including dismissal.

(5) REVIEW PROCESS: The Central Office Privacy Office will serve as the repository for all agreements; contracts, memorandums of understanding, etc., that are executed for external data requests, and shall further maintain copies of the original data request. Facility Privacy Officers shall provide such information to the Central Office Privacy Office on an ongoing basis.

History: Original DOR effective July 15, 2003.